



25 July 2018

In reply please quote:

FOI Request: FA 17/11/00241

File Number: ADF2017/117911

Dear [REDACTED]

Freedom of Information (FOI) request - Access Decision

On 7 November 2017, the Department of Immigration and Border Protection received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

On 20 December 2017 the Home Affairs Portfolio, including of Immigration and Border Protection, was formally established. The Department of Home Affairs includes the entirety of the Department of Immigration and Border Protection, the Australian Border Force and the Office of Transport Security from within the Department of Infrastructure and Regional Development. It also includes specific functions from the Attorney-General's Department, the Department of Social Services and the Department of the Prime Minister and Cabinet.

As such a decision has now been made on your request by the Department of Home Affairs (the Department).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

1 Scope of request

You have requested access to the following documents:

All emails sent between the Department and the Department of the Prime Minister and Cabinet discussing humanitarian, medical and/or security situation facing asylum seekers on Manus Island following the closure of the Manus Regional Processing Centre, specifically correspondence sent between October 31, 2017 and November 6, 2017, inclusive.

On 16 July 2018 you agreed to exclude the social media monitoring emails and information which were not strictly regarded as relevant to the scope of the request.

2 Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate records.

3 Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the documents relevant to the request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- advice from Departmental officers with responsibility for matters relating to the documents to which you sought access.

4 Documents in scope of request

The Department has identified 37 documents as falling within the scope of your request. These documents were in the possession of the Department on 7 November 2017 when your request was received.

Attachment A is a schedule which describes the relevant documents and sets out my decision in relation to each of them.

5 Decision

The decision in relation to the documents in the possession of the Department which fall within the scope of your request is as follows:

- Release 19 documents in part with deletions
- Exempt 13 documents in full from disclosure
- Release 5 documents in full

6 Reasons for Decision

Detailed reasons for my decision are set out below.

Where the schedule of documents indicates an exemption claim has been applied to a document or part of document, my findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

6.1 Section 22 of the FOI Act – irrelevant to request

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would reasonably be regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request.

On 17 November 2017, the Department advised you that its policy is to exclude the personal details of officers not in the Senior Executive Service (SES), as well as the mobile

and work telephone numbers of SES staff, contained in documents that fall within scope of an FOI request.

I have therefore decided that parts of documents marked 's22(1)(a)(ii)' would disclose information that could reasonably be regarded as irrelevant to your request, and have therefore prepared an edited copy of the documents, with the irrelevant material deleted pursuant to section 22(1)(a)(ii) of the FOI Act.

The remainder of the documents have been considered for release to you as they are relevant to your request.

6.2 Section 33 of the FOI Act – Documents affecting National Security, Defence or International Relations

Section 33(a)(iii) of the FOI Act permits exemption of a document if disclosure of the document would, or could reasonably be expected to cause damage to the international relations of the Commonwealth.

The phrase 'international relations' has been interpreted as meaning the ability of the Australian Government to maintain good working relations with other governments and international organisations and to protect the flow of confidential information between them. The expectation of damage to international relations must be reasonable in all the circumstances, having regard to the nature of the information; the circumstances in which it was communicated; and the nature and extent of the relationship. There must be real and substantial grounds for the conclusion that are supported by evidence.

I have consulted with the relevant business area of the Department concerning the information regarded as exempt under section 33(a)(iii). I consider that the information relates to a foreign government and provides an insight into diplomatic and operational relationships in the context of detention services operations, in particular, the closure of Manus Island Regional Processing Centre. Disclosure of the documents would or could reasonably be expected to damage the relationship between the PNG and Australian Governments, in particular, negatively impact future negotiations and/or the working relationship between the two Governments.

As such I have decided that the information redacted and marked 's33(a)(iii)' is exempt from disclosure under section 33(a)(iii) of the FOI Act.

6.3 Section 47E of the FOI Act – Operations of Agencies

Section 47E(d) of the FOI Act provides that documents are conditionally exempt if disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

I consider that the disclosure of the documents marked 's47E(d)' would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of the Department. Release of the information will reveal sensitive details regarding the Department's operations, contractual arrangements, intelligence collection and analysis techniques, and safety and security decision-making processes. Providing access to this information would cause actual and future harm to the Commonwealth's interests, particularly our future positive international relations and operations as individuals, organisations and governments will be able use this information to inform actions contrary to Australia's interests.

Managing the security and integrity of Australia's borders is integral to the operations of the Department. Any prejudice to the effectiveness of the operational methods and procedures used in undertaking that role would result in a substantial adverse effect on the operations of the Department.

The information marked 's47E(d)' consists of operational email addresses used by this Department. These email addresses are not otherwise publicly available, and disclosure of this information could reasonably be expected to result in potential vexatious communication and public inquiries which these operational areas are not resourced to manage. The Department has established channels of communication for members of the public into the Department, and I consider there is no public interest in disclosing these operational contact details. Given the operational focus of those business areas, such a diversion of the resources of that business area could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of this Department and its partner agencies.

Accordingly, I have decided that the documents are conditionally exempt under section 47E(d) of the FOI Act. Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether disclosure of the information would be contrary to the public interest, and have included my reasoning in that regard below.

6.4 The public interest – section 11A of the FOI Act

As I have decided that parts of the documents are conditionally exempt, I am now required to consider whether access to the conditionally exempt information would be contrary to the public interest (section 11A of the FOI Act).

A part of a document which is conditionally exempt must also meet the public interest test in section 11A(5) before an exemption may be claimed in respect of that part.

In summary, the test is whether access to the conditionally exempt part of the document would be, on balance, contrary to the public interest.

In applying this test, I have noted the objects of the FOI Act and the importance of the other factors listed in section 11B(3) of the FOI Act, being whether access to the document would do any of the following:

- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
- (b) inform debate on a matter of public importance;
- (c) promote effective oversight of public expenditure;
- (d) allow a person to access his or her own personal information.

Having regard to the above:

- I am satisfied that access to the documents would promote the objects of the FOI Act.
- I consider that the subject matter of the documents does have the character of public importance and that there may be broad public interest in the documents.

- I consider that no insights into public expenditure will be provided through examination of the documents.

Disclosure of all aspects of the documents would not provide a person with sufficient information to assess the rigour or efficiencies of internal decision making processes within the Department, promote scrutiny of government decision making or reveal the reasoning for a government decision. I consider these considerations as neutral.

I have also considered the factors that weigh against the release of the conditionally exempt information in the documents:

- It is not in the public interest to release operational or internal email addresses, as this could hamper the operational areas from performing their operational duties. I consider that this factor weighs heavily against disclosure.

I have also had regard to section 11B(4) which sets out the factors which are irrelevant to my decision, which are:

- a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- b) access to the document could result in any person misinterpreting or misunderstanding the document;
- c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
- d) access to the document could result in confusion or unnecessary debate.

I have not taken into account any of those factors in this decision.

Upon balancing all of the above relevant public interest considerations, I have concluded that the disclosure of the conditionally exempt information in the documents is not in the public interest and therefore exempt from disclosure under the FOI Act.

7 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Details/C2017C00251>. If you are unable to access the legislation through this website, please contact our office for a copy.

8 Your Review Rights

Internal Review

If you disagree with this decision, you have the right to apply for an internal review by the Department of this decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe a review of the decision is necessary. The internal review will be carried out by an officer other than the original decision maker and the Department must make a review decision within 30 days.

Applications for review should be sent to:

OR
By email to: foi.reviews@homeaffairs.gov.au

By mail to:
Freedom of Information Section
Department of Home Affairs
PO Box 25
BELCONNEN ACT 2617

Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see Fact Sheet 12 "Freedom of information Your review rights", available online at <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

9 Making a Complaint

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:
Phone 1300 363 992 (local call charge)
Email enquiries@oaic.gov.au

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Home Affairs as the relevant agency.

10 Contacting the FOI Section

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at foi@homeaffairs.gov.au.



Authorised Decision Maker
Department of Home Affairs

ATTACHMENT A

**SCHEDULE OF DOCUMENTS
REQUEST UNDER FREEDOM OF INFORMATION ACT 1982**

FOI request: FA 17/11/00241
File Number: ADF2017/117911

No.	Date of document	No. of pages	Description	Decision on release	
1.	31/10/2017	1	Email with subject: Minutes Manus IDC 30 October 2017	Release in part	S 22(1)(a)(ii) S 47E(d)
2.	30/10/2017	4	Closure of Manus Island Regional Processing Centre – Daily inter departmental committee Minutes from 30 October 2017	Exempt in full	S 33(a)(iii)
3.	31/10/2017	1	Email with subject: Manus Regional Processing Centre Daily Executive Update 31OCT2017	Release in part	S 22(1)(a)(ii) S 47E(d)
4.	31/10/2017	3	Manus Regional Processing Centre – Daily Executive Update	Exempt in full	S 33(a)(iii)
5.	31/10/2017	1	Email with subject: BIMS 26985 2017 Whole of Government TPs Manus RPC closure	Release in part	S 22(1)(a)(ii) S 47E(d)
6.	31/10/2017	2	Whole of Govt. Talking Points – As at 31 October 2017	Release in full	
7.	01/11/2017	1	Email with subject: Manus Regional Processing Centre Daily Executive Update – 01NOV2017 *	Release in part	S 22(1)(a)(ii) S 47E(d)
8.	01/11/2017	4	Manus Regional Processing Centre Daily Executive Update	Exempt in full	S 33(a)(iii)
9.	1/11/2017	1	Email with subject: Whole of Government TPs – Manus RPC closure – 01NOV2017	Release in part	S 22(1)(a)(ii) S 47E(d)
10.	1/11/2017	2	Document titled Whole of Govt. Talking Points As at 1 November 2017	Release in full	
11.	01/11/2017	1	Email with subject: Minutes Manus IDC – 31OCT2017	Release in part	S 22(1)(a)(ii) S 47E(d)

No.	Date of document	No. of pages	Description	Decision on release	
12.	31/10/2017	4	Closure of Manus Island Regional Processing Centre – Daily inter departmental committee Minutes from 31 October 2017	Exempt in full	S 33(a)(iii)
13.	01/11/2017	1	Email with subject: BIMS 26985 2017 Minutes – Manus IDC – 31OCT2017	Release in part	S 22(1)(a)(ii) S 47E(d)
14.	31/10/2017	4	Closure of Manus Island Regional Processing Centre – Daily inter-departmental committee Minutes from 31 October 2017	Exempt in full	S 33(a)(iii)
15.	2/11/2017	1	Email with subject: BIMS26985-2017 – Minutes – Manus IDC – 1 November 2017	Release in part	S 22(1)(a)(ii) S 47E(d)
16.	01/11/2017	4	Closure of Manus Island Regional Processing Centre – Daily inter-departmental committee Minutes from 1 November 2017	Exempt in full	S 33(a)(iii)
17.	2/11/2017	1	Email with subject: Manus Regional Processing Centre Daily Executive Update – 02NOV2017	Release in part	S 22(1)(a)(ii) S 47E(d)
18.	02/11/2017	4	Manus Regional Processing Centre – Daily Executive Update	Exempt in full	S 33(a)(iii)
19.	2/11/2017	1	Email with subject: Whole of Government TPs – Manus RPC Closure	Release in part	S 22(1)(a)(ii) S 47E(d)
20.	2/11/2017	2	Document titled Whole of Govt. Talking Points – As at 2 November 2017	Release in full	
21.	3/11/2017	1	Email with subject: BIMS 26985-2017 Manus Regional Processing Centre – Daily Executive Update – 03NOV2017	Release in part	S 22(1)(a)(ii) S 47E(d)
22.	3/11/2017	3	Manus Regional Processing Centre – Daily Executive Update	Exempt in full	S 33(a)(iii)
23.	3/11/2017	1	Email with subject: BIMS: 26985 – 2017 Planned Operation – Manus Closure – MIR – People Smuggling – SBC HQ – Minutes – Manus IDC – 2 November 2017	Release in part	S 22(1)(a)(ii) S 47E(d)
24.	2/11/2017	3	Closure of Manus Island Regional Processing Centre – Daily inter departmental committee Minutes from 2 November 2017	Exempt in full	S 33(a)(iii)

No.	Date of document	No. of pages	Description	Decision on release	
25.	3/11/2017	2	Email with subject: BIMS: 26985 – 2017 Planned Operation Manus Closure MIR People Smuggling – SBC HQ Weekend contacts	Release in part	S 22(1)(a)(ii) S 47E(d)
26.	4/11/2017	1	Email with subject: BIMS: 26985 2017 Manus Regional Processing Centre – Daily Executive Update 04NOV2017	Release in part	S 22(1)(a)(ii) S 47E(d)
27.	4/11/2017	4	Manus Regional Processing Centre – Daily Executive Update	Exempt in full	S 33(a)(iii)
28.	4/11/2017	1	Email with subject: BIMS 26985-2017 Whole of Government TPs Manus RPC closure 03NOV2017	Release in part	S 22(1)(a)(ii) S 47E(d)
29.	3/11/2017	2	Document titled Whole of Govt. Talking Points As at 3 November 2017	Release in full	
30.	5/11/2017	1	Email with subject: BIMS 26985 2017 Manus Regional Processing Centre – Daily Executive Update 05NOV2017	Release in part	S 22(1)(a)(ii) S 47E(d)
31.	05/11/2017	2	Manus Regional Processing Centre – Daily Executive Update	Exempt in full	S 33(a)(iii)
32.	6/11/2017	1	Email with subject: BIMS 26985-2017 Manus Regional Processing Centre Daily Executive Update 06NOV2017	Release in part	S 22(1)(a)(ii) S 47E(d)
33.	6/11/2017	3	Manus Regional Processing Centre Daily Executive Update	Exempt in full	S 33(a)(iii)
34.	6/11/2017	1	Email with subject: BIMS 26985 2017 Manus IDC – 3 November 2017	Release in part	S 22(1)(a)(ii) S 47E(d)
35.	3/11/2017	5	Closure of Manus Island Regional Processing Centre Daily inter-departmental committee Minutes from 3 November 2017	Exempt in full	S 33(a)(iii)
36.	6/11/2017	1	Email with subject: WoG TPs for 06NOV2017	Release in part	S 22(1)(a)(ii) S 47E(d)
37.	6/11/2017	3	Document titled Whole of Govt. Talking Points As at 6 November 2017	Release in full	